

FINAL MINUTES
Pesticide Control Board
Oliver Hill Building, Richmond, VA
July 19, 2007

The Pesticide Control Board met at 9:00 a.m. at the Oliver W. Hill Building, 102 Governor Street, 2nd Floor, Richmond, Va. Presiding members were Donald Fritz, Chairman and the Executive Secretary.

The following Board members were present: Dr. William Boshier; Dr. George Brown; Ruth Brown; Donald Fritz; Carl Garrison, III; Richard Nunnally; Robin Rinaca; Mark Tubbs; Liz White and Joe Wilson. The following Board members were absent: Dr. Alma C. Hobbs, (represented by Dr. Asmare Atalay); and Dr. Sharron Quisenberry (represented by Dr. Michael Weaver).

The following staff members were present: Andres Alvarez; Dr. Wayne Surles; Donald Blankenship; Liza Fleeson; Douglas Edwards; Joe Dictor; Kathy Dictor; Marshall Trammell; Vickie Rengers; William Fritz; Elaine Lidholm and Rhonda Bates.

Others present: John C. Horsley, Jr. and J. Sweeney, Terminix; Andrea Coron, VA Pest Management Association; Marlene Larios and Sharon Saldarriaga, Telamon Corporation; Jim Fredericks, Home Paramount; Tony Banks, VA Farm Bureau; Donna Johnson, VA Agribusiness Council; Joshua Low, Sierra Club; Laurie Coulter, Daryl Clay, David Moore, Angela Phillips, Rick Love, Joedy Sheets, Danny Wayland, Jeff Phillips, Jim Oliver; John Hawthorne and Leon F. Troutman, VA Crop Production Association; and Susan Nessler, VA Tech.

CALL TO ORDER

Chairman Fritz called the meeting to order.

DETERMINATION OF A QUORUM

Chairman Fritz announced that a quorum was present.

APPROVAL OF MINUTES

Mr. Nunnally moved to adopt the minutes of the April 19, 2007 Board meeting. Ms. White seconded. The motion carried unanimously.

PUBLIC COMMENT PERIOD

John Hawthorne, President of the VA Crop Production Association, thanked the Board for seeking the Association's input in decision making.

COMPLIANCE ACTIVITIES FOR THE QUARTER

Joe Dictor provided a summary of enforcement activities for the quarter.

Mr. Tubbs, Chair of the Enforcement Committee, presented three cases to the Board for approval where the hearing officers adjusted the penalties greater than 25%.

In case 28871 involving Honor Pest Control, Mr. Tubbs moved to accept the hearing officer's recommendation to reduce the \$1600 civil penalty to \$640. Dr. Brown seconded. The motion carried unanimously.

In case 28573 involving Agra Lawns, Mr. Tubbs moved to accept the hearing officer's recommendation to reduce the \$2500 civil penalty to \$1500. Dr. Brown seconded; ayes 11, nays 1. The motion carried.

In case 29339 involving Lesco, Inc., Mr. Tubbs moved to accept the hearing officer's recommendation to reduce the \$800 civil penalty to \$520. Dr. Brown seconded. The motion carried unanimously.

CONTAINER/CONTAINMENT RULE

Ms. Fleeson provided the Board with the current status of the Federal Container Containment Rule which establishes requirements for pesticide container design, procedures, standards and label language to facilitate removal of pesticides from containers prior to disposal and recycling; and, containment of stationary pesticide containers and procedures for container refilling operation. The final regulation became effective October 16, 2006. States that had pesticide containment regulations in place by August 16, 2006 can request the authority to continue implementing their State containment program in lieu of the Federal containment regulations. As Virginia did not have containment regulations in place on that date, we are awaiting final implementation guidance for States that did not have containment regulations in place on August 16, 2006. The forthcoming guidance will outline the options available to States without containment regulations and the requirements for submission of intention. States without containment regulations will have three options: 1) enforce provisions of the federal rule using federal credentials; 2) incorporate federal container containment regulations into State's current regulations; or 3) promulgate new regulations at least equivalent to the federal rule. Upon publication, staff will analyze the EPA's final guidance and discuss the options within the agency for the Commissioner's consideration. Staff will advise the Board accordingly.

HISTORY OF PESTICIDE REGULATIONS PART II

Ms. Dictor presented part two of the history of pesticide regulations.

REGULATORY UPDATES

Mr. Trammell brought the Board up-to-date on the status of certification and enforcement registration regulations. He reported that the enforcement registration regulations will continue as we work with industry. The certification regulations have been re-published on Town Hall for another comment period to end September 10.

STATUS OF PESTICIDE APPLICATOR SAFETY TRAINING PROGRAM

Dr. Weaver and Susan Nessler provided updates on the status of the manual development and on the pesticide applicator training programs. Dr. Weaver extended an invitation to all Board members to attend the 2007 Pesticide Safety Educators Workshop in Roanoke, October 10-11, 2007, at the VA Tech Hotel Roanoke Conference Center.

Ms. Nessler highlighted reprints of five training manuals, as well as new and completed publications and exams.

EXECUTIVE SECRETARY'S REPORT

In regard to personnel, Dr. Surles reported that OPS is seeking to hire a replacement for Marshall Trammell prior to his January 1, 2008 retirement. Douglas Edwards has been promoted to Supervisor of Enforcement and two new Pesticide Investigators have been hired – Richard Jones in Lynchburg and Will Fritz in Wytheville. OPS is actively filling the vacant Worker Protection Standard position.

Dr. Surles stated that the VA Pest Management Association (VPMA) grant request was modified and approved as sole source by VDACS' procurement office. VPMA will sign a research agreement with VA Tech by July 26. Seven workshops will be held between November 13, 2007 and March 21, 2008. The VPMA feasibility study for conducting a long-term sustained program for education has been delayed until the October meeting.

DEPUTY COMMISSIONER'S REPORT

Mr. Blankenship reported that Governor Kaine appointed Todd P. Haymore VDACS' Commissioner effective August 1. He distributed VA Grown brochures to Board members and answered questions about avian flu and honeybees.

CHAIRPERSON'S REPORT

Chairman Fritz opened the floor for discussion in determining who is accountable for violations of the Pesticide Control Act, the company or the applicator. After the Board discussed this at length, Chairman Fritz suggested staff present at October meeting the procedures now available, workload impact upon staff, seek recommendations from industry (VACPA, VPMA and VA Turfgrass Council) and send to Dr. Surles thirty days prior to October meeting. Chairman Fritz thanked the staff for their usual good job.

ADJOURNMENT

Meeting adjourned at 12:25 p.m.

(For further detail, taped minutes of the meeting are on file at VDACS and can be accessed by calling 804/225-2223.)